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IN THE

Supreme Court of the United States

OCTOBER TERM, 1990

GRUMMAN AEROSPACE CORPORATION,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Federal Circuit

THE FEDERAL CIRCUIT BAR ASSOCIATION BRIEF *AMICUS CURIAE* IN SUPPORT OF PETITIONER, GRUMMAN AEROSPACE CORPORATION

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THE FEDERAL CIRCUIT BAR ASSOCIATION BRIEF *AMICUS CURIAE* IN SUPPORT OF PETITIONER, GRUMMAN AEROSPACE CORPORATION

The Federal Circuit Bar Association, with the consent of all parties, submits this brief *amicus curiae* pursuant to Rule 37.2 of the Rules of this Court in support of the petition for a writ of certiorari filed by Grumman Aerospace Corporation.

THE AMICUS AND ITS INTERESTS

The Federal Circuit Bar Association is a national organization with over 1,700 members. Its primary purpose is to improve and facilitate the administration

of justice in the United States Court of Appeals for the Federal Circuit.

Members of The Federal Circuit Bar Association are directly affected by *United States v. Grumman Aerospace Corp.*, 927 F.2d 575 (Fed. Cir. 1991). The decision has generated enormous confusion regarding fundamental issues of the jurisdiction of the Court of Appeals for the Federal Circuit, the United States Claims Court and the agency Boards of Contract Appeals to hear and decide disputes pursuant to the Contract Disputes Act of 1978, 41 U.S.C. §§ 601-613. The decision will serve only to increase the time and expense of litigation without any offsetting benefit to the administration of justice.

The *Grumman* panel has held that Federal Acquisition Regulation (FAR) 33.207(c)(2), 48 C.F.R. Ch. 1 (1990), a procurement regulation that purports to describe the persons who may properly certify non-individual contractor claims, is a reasonable explication of the certification requirements of section 6(c)(1) of the Contract Disputes Act of 1978, Pub. L. No. 95-563, 92 Stat. 2383, 2385 (codified at 41 U.S.C. § 605(c)(1)) (the "Act"). The *Grumman* panel viewed the certification requirements of the Contract Disputes Act as incomplete, and FAR 33.207(c)(2) as filling the legislative gap. *Grumman*, 927 F.2d at 578-79. In so holding, the *Grumman* panel disregarded the plain meaning of the Contract Disputes Act and the express intent of Congress in enacting that statute.

The *Grumman* decision has had a devastating impact on pending cases. The Armed Services Board of Contract Appeals has *sua sponte* directed parties to review the certifications in more than one hundred

cases. Numerous motions to dismiss based on *Grumman* are being filed before agency boards, the Claims Court, and in the United States Court of Appeals for the Federal Circuit. Many of these claims and cases have already been pending for many years. Indeed, in some cases, the jurisdiction of the forum is being challenged for the first time after trial. Government contractors and the Bar cannot be sure whether claim certifications submitted months, or even years ago, will be considered proper, or will be challenged on jurisdictional grounds.

The *Grumman* panel refused to revisit its earlier decisions holding that certification was jurisdictional. For the past nine years, those decisions have created chaos over the effect to be given a failure to comply with the technical certification requirements imposed by the courts or by regulation. These requirements are not imposed by the Act. Instead, for the most part, they have been judicially legislated. These requirements have been a colossal waste of judicial resources and a major frustration of the Contract Disputes Act.

While the court has allowed the recertification and resubmission of defective claims, the result does not eliminate the enormous waste of resources and expense in litigating issues unrelated to the merits of the claims. Moreover, the eighteen-month statute of limitations for the filing of claims on shipbuilding contracts (10 U.S.C. § 2405) has recently been raised as a possible bar to resubmission. If upheld, the result would be that millions of dollars in valid claims could be voided because of ambiguous technicalities.

The Federal Circuit Bar Association and its members have a direct and substantial interest in the is-

sues presented to this Court by Grumman Aerospace Corporation's petition, and in urging this Court to review and reverse the decision of the court below.

REASONS FOR GRANTING THE WRIT

The Court of Claims and Federal Circuit decisions holding that the certification requirement in the Contracts Disputes Act is jurisdictional have spawned hundreds upon hundreds of useless decisions and will continue to waste judicial resources and frustrate the purposes of the Act until those cases are overruled. The Federal Acquisition Regulation applied by the court to limit the contractor representatives qualified to certify for the contractor is contrary to the plain terms and purpose of the Act and is invalid.

I. The Court of Claims' and Federal Circuit's Decisions That Certification of Claims Is Jurisdictional Hinder the Administration of Justice.

No issue arising under the Contract Disputes Act has generated as much litigation as the technicalities of claim certification. As identified in the attached Appendix, the validity of the contractor certification has been litigated in approximately one hundred cases before the Federal Circuit, the Court of Claims, and the Claims Court. The countless decisions of the agency Boards of Contract Appeals far exceed this number but are illustrated by the fact that in the single month of June 1991, the Armed Services Board of Contract Appeals issued nine published decisions addressing the adequacy of claims certification.[1]

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[1] *Union Boiler Works, Inc.*, ASBCA Nos. 41857, 41858, 41860 (June 27, 1991); *Newport News Shipbuilding and Dry Dock Co.*, ASBCA No. 33244 (June 26, 1991); *Harbert Int'l, Inc.*, ASBCA

These hundreds of cases discuss in detail the technicalities of the precise words necessary for the certification, who can sign the certification, whether a change in the amount of the claim requires a new certification, whether the claim is a contractor claim or a claim by the Government against the contractor for which a certification is unnecessary, and when the certification is required to be submitted.[2] This body of decisional law evinces an enormous but pointless investment of the resources of the courts, the Boards of Contract Appeals and the parties. These decisions contradict the fundamental purpose of the Contract Disputes Act, which is to provide fair and expeditious resolution of government contract disputes.

This waste of resources accomplishes nothing. The only result is to delay the fair consideration of the contractors claim. As the Court of Claims held in *Skelly and Loy v. United States*, 685 F.2d 414, 419 (Ct. Cl. 1982) and as the Federal Circuit repeated in

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Nos. 41144, 41571 (June 25, 1991); *William L. Crow Constr. Co.*, ASBCA Nos. 40998, 41508 (June 14, 1991); *Lake Shore, Inc.*, ASBCA No. 42578 (June 11, 1991); *JAYCOR*, ASBCA No. 40911 (June 10, 1991); *Allied Painting & Decorating Co.*, ASBCA No. 42496 (June 10, 1991); *Sademi Joint Venture*, ASBCA No. 41025 (June 4, 1991); *Service Engineering Co.*, ASBCA No. 33787 (June 3, 1991).

[2] The Appendix indicates the certification issue presented in each of the listed cases. The Appendix also sets forth the date that the claim at issue was submitted to the Contracting Officer for decision and the date the court or Board issued its decision addressing the validity of the certification. Typically several years elapsed between these dates. In those cases in which the claim was dismissed because the certification was deemed inadequate, all of these years of effort were lost since the contractor is required to begin the process anew with a refiled and recertified claim.

Grumman, 927 F.2d at 581, the "proper course" for a contractor whose claim is dismissed for lack of a valid certification is to "(1) properly certify the claim; (2) resubmit the claim to the contracting officer; and (3) if there is then an adverse contracting officer's decision, appeal either to the board (section 606) or directly to this court (section 609)."

The absurdity and unfairness of this result is apparent in cases such as *United States v. W.H. Moseley Co.*, 730 F.2d 1472 (Fed. Cir. 1984). In *Moseley*, the contractor submitted a claim for over $1,000,000 in 1979. The following year the contracting officer issued her final decision denying the claim and advised the contractor in writing of its right to appeal the decision either under the disputes clause of the contract, or under the Contract Disputes Act. Pursuant to the transition rules then in effect, the contractor elected to proceed to the Court of Claims under the Act. Notwithstanding the contracting officer's instructions to the company, the Government moved to dismiss the appeal on the grounds that the contractor had failed to certify the claim and consequently could not appeal under the Act. The court granted the Government's motion in *W.H. Moseley Co. v. United States*, 677 F.2d 850, *cert. denied*, 459 U.S. 836 (1982). The contractor then certified and refiled its claim, but the contracting officer refused to accept it, arguing that her prior decision was valid. Pursuant to the Act, the contractor obtained an order from the Department of Agriculture Board of Contract Appeals directing the contracting officer to issue a new final decision, but the Government appealed that decision to the Federal Circuit. The Federal Circuit dismissed the appeal as interlocutory, leaving the jurisdictional

issue undecided until after the Board decided the merits. 730 F.2d at 1475-76. Thus, five years after the claim was filed, the contractor was allowed for the first time to present the merits of its case, but with the threat that on appeal, jurisdiction might once again be found lacking. The Federal Circuit imposed this senseless result notwithstanding its regret that "some contractors . . . have become entangled in a procedural maze created by uncertainties regarding the proper application of the Act's provisions." 730 F.2d at 1476.

Even when the contractor prevails, the litigation of certification issues results in substantial delays and expense, and wastes the resources of the courts. For example, in *Placeway Construction Corp. v. United States*, 920 F.2d 903 (Fed. Cir. 1990), the contractor filed a claim in 1986. In 1987, suit was filed in the Claims Court, but the case was dismissed on certification grounds. In 1990, the Federal Circuit reversed the Claims Court's dismissal and remanded the case for proceedings on the merits. After four years and three published decisions, the parties finally turned to the merits of the dispute.

The Claims Court's and Federal Circuit's decisions on certification produce a result that is contrary to the express purpose of the Act. The repercussions of these decisions were well summarized by Chief Judge Smith of the Claims Court as he reluctantly dismissed the contractor's suit in *Clark Mechanical Contractors v. United States*, 12 Cl. Ct. 415 (1987). Judge Smith concluded by stating:

> The plaintiff in this case is not barred by the statute of limitations from refiling, *but is*

> *being required to waste judicial resources as well as its own and the government's resources.* The plaintiff must refile the identical claim with the contracting officer; the only difference being that the claim will now be certified before filing rather than after. Upon receipt of a final decision, the plaintiff can either refile with this court or appeal to the Board of Contract Appeals.

12 Cl. Ct. at 417 (emphasis added).

These decisions are contrary to the fair administration of justice and warrant review by this Court. The petition for writ of certiorari should be granted and the decision of the Federal Circuit reversed.

II. The Jurisdictions of the United States Claims Court and the Boards of Contract Appeals Are Not Dependant Upon the Certification of the Underlying Claim.

The linchpin of the Federal Circuit's decision below was its reaffirmation that the absence of certification of a claim pursuant to Section 6(c)(1) of the Contract Disputes Act deprives a Board of Contract Appeals or the Claims Court of jurisdiction to hear a contract dispute. This holding is erroneous. The Contract Disputes Act of 1978 grants jurisdiction to the Boards and the Claims Court to hear appeals of any final decision of a contracting officer. This grant of jurisdiction is unconditional; certification of the underlying claim is unrelated to the authority of these forums to resolve contract disputes.

The Contract Disputes Act of 1978, 41 U.S.C. §§ 601-613,[3] was enacted in order to provide a "fair,

[3] Public Law 95-563, 92 Stat. 2383.

balanced, and comprehensive statutory system of legal and administrative remedies in resolving Government contract claims."[4] The Act was based on the recommendations of the Commission on Government Procurement, established pursuant to Pub. Law 91-129. *Senate Report* at 4; *House Report* at 5-6.

The disputes resolution process embodied in the Act is intended, in the first instance, to encourage the parties to resolve controversies through negotiation. Failing that, however, the Act grants the Government's contracting officer the right to unilaterally decide the dispute by issuing a "final decision." Section 6(a) of the Act, 41 U.S.C. § 605(a), provides that all claims by the contractor against the Government, or by the Government against the contractor, shall be the subject of a final decision. That decision is final and conclusive unless appealed by the contractor. 41 U.S.C. § 605(b).

A cornerstone of the Contract Disputes Act was Congress' decision to permit the contractor to appeal any adverse final decision to either the agency's Board of Contract Appeals, or to the United States Court of Claims.[5] To this end, the Act granted, without

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[4] S. Rep. No. 95-1118, *Contract Disputes Act of 1978*, 95th Cong., 2d Sess., 1 (1978)(hereafter *"Senate Report"*). *See also* H.R. Rep. No. 95-1556, *Contract Disputes Act of 1978*, 95th Cong., 2d. Sess. 5-6 (1978)(hereafter *"House Report"*).

[5] In 1982, the Federal Courts Improvements Act, Pub. Law. 97-164, 96 Stat. 25, was enacted. That statute created the United States Claims Court and transferred the contract jurisdiction of the Court of Claims to that new court. The statute also created the Court of Appeals for the Federal Circuit and provided for the appeal of the decisions of the Claims Court or of the Boards of Contract Appeals to that Circuit.

condition or qualification, jurisdiction to both the Claims Court and Boards of Contract Appeals to decide appeals of final decisions. With respect to the Boards of Contract Appeals, § 7 of the Act, 41 U.S.C. § 606, provides that the contractor may appeal to any agency Board of Contract Appeals within ninety days of receipt of the final decision. Section 8(d) of the Act, 41 U.S.C. § 607(d), grants jurisdiction to the Boards to decide these appeals, stating:

> Each agency Board shall have jurisdiction to decide any appeal from a decision of a contracting officer (1) relative to a contract made by its agency, and (2) relative to a contract made by any other agency when such agency or the Administrator has designated the agency board to decide the appeal. In exercising this jurisdiction, the agency board is authorized to grant any relief that would be available to a litigant asserting a contract claim in the Claims Court.

With respect to the Claims Court, § 10(a)(1) of the Act provides that:

> [I]n lieu of appealing the decision of the contracting officer under section 6 to an agency board, a contractor may bring action directly on the claim in the United States Claims Court, notwithstanding any contract provision, regulation, or rule of law to the contrary.

Section 14(i) of the Act amended the Tucker Act, 28 U.S.C. § 1491, to grant the Claims Court jurisdiction to decide any such appeal. The Tucker Act now provides:

> The Claims Court shall have jurisdiction to render judgement upon any claim by or against, or dispute with, a contractor arising under section 10(a)(1) of the Contract Disputes Act of 1978.

28 U.S.C. § 1491(a)(2).

Despite the unequivocal language of these jurisdictional provisions, the Court of Claims held in *Paul E. Lehman, Inc. v. United States*, 673 F.2d 352, 355 (Ct. Cl. 1982) that a contractor could not appeal a contracting officer's decision to the court because,"[u]nless [the certification] requirement is met, there simply is no claim that this court may review under the Act." The Court of Appeals for the Federal Circuit has restated in numerous cases, including *Grumman*, that certification is a jurisdictional prerequisite for court review.

The *Lehman* decision and its progeny ignore the recommendations of the Commission on Government Procurement and the system structured by the Commission and by Congress after lengthy hearings and deliberations. These decisions rest on the fallacy that certification "is an important part of the new procedures Congress provided in the Act for the handling of claims by government contractors." *Lehman*, 673 F.2d at 354.

To the contrary, the history of the Contract Disputes Act reflects that claims certification was a minor afterthought based on the testimony of one disgruntled witness. Based on the Commission's recommendations, the Act provided a comprehensive set of procedures and remedies. In separate sections, the Act specifies each of the steps to be followed for

submitting a claim to the Contracting Officer, for appealing directly to court, or for appealing to an agency board of contract appeals and appealing therefrom to court.

The requirement for certification of claims, however, was not among the recommendations of the Commission, was not in the bills as reported by the House and Senate Judiciary Committees, and was not in the bill as originally passed by the House (H.R. 11002). 124 *Cong. Rec.* 31,641-46 (1978). Instead, the certification provision was included as one small part of a package of floor amendments passed by the Senate two days before Congress adjourned. 124 *Cong. Rec.* 36,266 (1978). No mention was made of the certification provision in the explanation provided with the amendments. *Id.* at 36,266-67.[6] The House acceded to the Senate's version of the bill because the short time remaining in the legislative session left no time for a conference. *See* 124 *Cong. Rec.* 37,076 (1978) (remarks of Rep. Kindness). In accepting these amendments, the certification requirement was again ignored. Rather than addressing this supposedly "important" amendment, Congressman Danielson sum-

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[6] The Court of Claims in *Lehman* mistakenly stated that the sponsor of the amendments, Senator Byrd, explained the amendments to section 6(c) as intended to address the concerns of Admiral Rickover. *Lehman*, 673 F.2d at 354-55. In fact, the passage from Senator Byrd's statement on which the Court relied referred to the deletion of Section 6 as reported by the Judiciary Committee. That section addressed informal administrative conferences (124 *Cong. Rec.* 36,267); section 6 as enacted was based on section of the reported bill. 124 *Cong. Rec.* 36,266. In fact, Senator Byrd in his Explanation of Amendments never referred to the addition of the certification requirement. 124 *Cong. Rec.* 36,266-67.

marized the package of Senate amendments with the single statement: "[T]he Senate amendment to this bill simply reinstates existing law on the burden of proof on an appeal from a contract dispute." *Id.*

This history belies the prominence which the Federal Circuit has accorded certification. Despite the apparent insignificance of this provision to Congress, the court below has elevated claims certification to be the keystone of the disputes process. The court's treatment of certification as a jurisdictional prerequisite is a flagrant example of judicial legislation.

The Federal Circuit's holding that claims certification is jurisdictional is akin to the decision reversed by this Court in *Zipes v. Trans World Airlines, Inc.*, 455 U.S. 385 (1982). In *Zipes*, the Seventh Circuit held that the timely filing of a charge of sex discrimination with the Equal Employment Opportunity Commission ("EEOC") was a jurisdictional prerequisite to a suit in federal court under Title VII of the Civil Rights Act of 1964, 78 Stat. 253, as amended, 42 U.S.C. §§ 2000e-5(g). This Court reversed, holding that filing with the EEOC is not jurisdictional, but is "a requirement that, like a statute of limitations, is subject to waiver, estoppel, and equitable tolling." 455 U.S. at 393. In reaching this conclusion, this Court explained:

> The provision granting district courts jurisdiction . . . does not limit jurisdiction to those cases in which there has been a timely filing with the EEOC. It contains no reference to the timely-filing requirement. The provision specifying the time for filing charges with the EEOC appears as an entirely separate

> provision, and it does not speak in jurisdictional terms or refer in any way to the jurisdiction of the district courts.

455 U.S. at 394 (footnotes omitted).

Likewise here, the provisions of the Contract Disputes Act granting jurisdiction to the Boards of Contract Appeals and Claims Court to decide appeals of contracting officers' final decisions—41 U.S.C. § 607(d) and 28 U.S.C. § 1491(a)(2) respectively—do not limit jurisdiction to those cases in which there has been a proper certification of the claim, or contain any reference to the certification requirement. Like the timely filing provisions in Title VII, the certification requirement appears as an entirely separate provision that neither speaks in jurisdictional terms, nor refers in any way to the jurisdiction of the Claims Court or the Boards. Section 6(c)(1) of the Contracts Disputes Act, 41 U.S.C. § 605(c)(1), simply provides:

> For claims of more than $50,000, the contractor shall certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of his knowledge and belief, and that the amount requested accurately reflects the contract adjustment for which the contractor believes the government is liable.

The sole jurisdictional predicate for an appeal under the Contract Disputes Act is a final decision of a contracting officer. Here, Grumman's claim was denied by the Department of the Navy's Corporate Administrative Contracting Officer on March 4, 1987. *Grumman*, 927 F.2d at 577. Grumman appealed that decision to the Armed Services Board of Contract Appeals on April 1, 1987—well within the ninety day

period for appeal specified in § 7 of the Act, 41 U.S.C. § 606. Nothing more was necessary to establish the jurisdiction of the Board to decide the dispute, and it decided in favor of Grumman. The Federal Circuit erred in dismissing Grumman's claim for lack of jurisdiction. This Court should accept certiorari and should reverse that court's decision.

III. FAR 33.207(c)(2) Is Invalid Because It Conflicts with the Plain Language and Express Purpose of the Statute It Purports To Interpret.

Section 6(c)(1) of the Contract Disputes Act provides that "the contractor shall certify" the claim. Section 2(4) of the Act defines "contractor" simply as "a party to a Government contract other than the Government." The Act properly leaves to the contractor the choice of who can execute the certification, the only question being whether the person is authorized to act on behalf of the contractor. Under the plain terms of the statute, any contractor representative authorized to bind the contractor can certify.

Despite the seemingly unambiguous language of the statute, FAR 33.207(c)(2) purports to limit the range of persons authorized to execute certifications to:

> (i) A senior company official in charge at the contractor's plant or location involved; or
>
> (ii) An officer or general partner of the contractor having overall responsibility for the conduct of the contractor's affairs.

This regulatory requirement is more than a technicality. Given the Federal Circuit's decisions that a proper certification is jurisdictional, upholding this regulation cedes to the administrative agencies the

power to restrict the jurisdiction of the courts, and to limit the rights of contractors to appeal adverse final decisions that was granted to them by Congress. The only limitations on this agency power would be that the limitations be "reasonable." Certainly, no administrative agency can limit the appealability of its own decisions in the face of a statutory right of appeal, yet that is the effect of FAR 33.207(c)(2). On its face, the regulation conflicts with the Contract Disputes Act and should be disregarded.

Moreover, this regulation is so ambiguous that even experts in government procurement law are unable to advise their clients who the proper person is to sign, or provide assurance that any particular certification will withstand a challenge by the Government. The dozens of published decisions addressing who can sign a certification attest to the difficulties of applying the regulatory language in practice.

The *Grumman* majority justified the regulation as a "permissible act of administrative gap-filling." 927 F.2d at 578. As the dissent makes clear, however, such gap-filling is permissible only when a statute is ambiguous or silent on a particular point, and then only when the Executive branch gap-filling accords with legislative history. *Grumman*, 927 F.2d at 582. A Congressional purpose underlying the comprehensive disputes resolution system enacted with the Contract Disputes Act was to eliminate Executive branch manipulation of the disputes resolution process. Senate Report at 2. FAR 33.207(c)(2) conflicts with this purpose.

FAR 33.207(c)(2) conflicts with the plain language of the very statute it purports to implement. When confronted with an attempt to modify the plain mean-

ing of a statute through the use of a single example from its legislative history, Chief Judge Marvin Jones of the former United States Court of Claims appropriately stated: "[a]n explanatory tale should not wag a statutory dog." *A. P. Green Export Company v. United States*, 284 F.2d 383, 386 (Ct. Cl. 1960). This colorful language aptly characterizes the narrow limitation in FAR 33.207(c)(2) of the otherwise unambiguous term "contractor."

IV. A Decision Overruling Lehman Could Be Limited To Prospective Application.

A decision overruling the *Grumman* and *Lehman* decisions could be limited to prospective application so as to avoid disturbing decided cases. This Court and the Courts of Appeal have often declined to retroactively apply decisions that overrule clear past precedent. *See Solem v. Stumes*, 465 U.S. 638, 646-47 (1984) (an announcement of a new standard "is almost automatically nonretroactive" where the decision "has explicitly overruled past precedent"). For example, in *Northern Pipeline Construction Co. v. Marathon Pipe Line Co.*, 458 U.S. 50, 87-88 (1982), this Court held that the broad grant of jurisdiction to the bankruptcy courts in 28 U.S.C § 1471 was unconstitutional, but declined to make that ruling retroactive in part because "retroactive application . . . would surely visit substantial injustice and hardship upon those litigants who relied upon the Act's vesting of jurisdiction in the bankruptcy courts." *See also id.* at 92 (Rehnquist, J., concurring).

Similarly, in *Allen v. Hardy*, 478 U.S. 255, 260 (1986) (per curiam), this Court declined to apply *Batson v. Kentucky*, 476 U.S. 79 (1986) retroactively to proceedings that were final when *Batson* was an-

nounced. It found that retroactive application "would seriously disrupt the administration of justice," because of the need to hold hearings after the prior proceedings had become final in order to determine if they had been held in accordance with the rule established for the first time in *Batson*. *Cf. Buckley v. Valeo*, 424 U.S. 1, 142-43 (1976) (actions of FEC prior to Court decision accorded *de facto* validity, despite holding that method of FEC selection was unconstitutional); *Boeing Co. v. United States*, 680 F.2d 132, 141 (Ct. Cl. 1982), *cert. denied*, 460 U.S. 1081 (1983). Similarly, this Court can determine that certification of claims is not jurisdictional without disturbing cases previously decided.

CONCLUSION

For the reasons set forth in the dissent in *Grumman*, 927 F.2d at 581-84, and all of the foregoing reasons, the petition for a writ of certiorari should be granted.

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APPENDIX

APPENDIX

Decisions of the Court of Appeals for the Federal Circuit, Court of Claims and Claims Court on Certification of Claims

Case Name	Claim Date	Decision Date	Issue
Decisions in Which Claim Was Dismissed for Lack of Proper Certification			
W.M. Schlosser Co., Inc. v. United States, 705 F.2d 1136 (Fed. Cir. 1983)	02/80	04/22/83	No certification.
Thoen v. United States, 5 Cl. Ct. 823 (1984), *vacated*, 765 F.2d 1110 (Fed. Cir. 1985)	06/23/83	06/25/85	No certification.
Sante Fe Eng'rs, Inc. v. United States, 818 F.2d 856 (Fed. Cir. 1987)	03/11/81	05/13/87	Change in nature of claim.
Ball, Ball & Brosamer, Inc. v. United States, 878 F.2d 1426 (Fed. Cir. 1989)	11/30/84	07/07/89	Who can sign certification?

Case Name	Claim Date	Decision Date	Issue
Placeway Constr. Corp. v. United States, 18 Cl. Ct. 159 (1989), *aff'd in part and vacated in part*, 910 F.2d 835, *reh'g granted in part*, 920 F.2d 903 (Fed. Cir. 1990)	05/28/86	11/14/90	Change in amount of claim.
United States v. Grumman Aerospace Corp., 918 F.2d 185, 927 F.2d 575 (Fed. Cir. 1991)	01/07/87	02/27/91	Who can sign certification?
Paul E. Lehman, Inc. v. United States, 673 F.2d 352 (Ct. Cl. 1982)	12/79	02/24/82	No certification.
W.H. Moseley Co. v. United States, 677 F.2d 850 (Ct. Cl. 1982), 730 F.2d 1472 (Fed. Cir. 1984)	06/15/79	03/26/84	Form of certification.
Tri-Central, Inc. v. United States, 230 Ct. Cl. 842 (1982)	01/80 est.	03/23/82	No certification.

Case Name	Claim Date	Decision Date	Issue
Arlington Alliance, Ltd. v. United States, 685 F.2d 1353 (Ct. Cl. 1982)	09/21/81	08/11/82	No certification.
Skelly and Loy v. United States, 685 F.2d 414 (Ct. Cl. 1982)	12/11/80	08/11/82	Form of certification.
Troup Bros. Inc. v. United States, 231 Ct. Cl. 370 (1982)	1980 est.	06/08/82	Timing of certification.
Grad Partnership v. United States, 1 Cl. Ct. 616 (1982)	04/06/81	11/22/82	No certification.
Fidelity and Deposit Co. of Md. v. United States, 2 Cl. Ct. 137 (1983)	09/18/80	03/23/83	No certification.
A.B.M. Precision Metal Works, Inc., v. United States, 2 Cl. Ct. 332 (1983)	07/82	04/26/83	No certification.
Warchol Constr. Co., Inc. v. United States, 2 Cl. Ct. 384 (1983)	09/25/80	04/21/83	No certification.

Case Name	Claim Date	Decision Date	Issue
Conoc Constr. Corp. v. United States, 3 Cl. Ct. 146 (1983)	01/05/82	07/29/83	No certification.
Walsky Constr. Co. v. United States, 3 Cl. Ct. 615 (1983)	09/28/81	10/20/83	No certification.
Alchemy, Inc. v. United States, 3 Cl. Ct. 727 (1983)	02/17/83	11/16/83	Timing of certification.
Palmer & Sicard, Inc. v. United States, 4 Cl. Ct. 420 (1984)	03/27/81	02/06/84	Form of certification.
Black Star Sec., Inc. v. United States, 5 Cl. Ct. 110 (1984)	11/18/81	04/06/84	No certification.
Parking Co. of America v. United States, 5 Cl. Ct. 139 (1984)	05/12/82	05/08/84	No certification.
Cosmic Constr. Co. v. United States, 5 Cl. Ct. 237 (1984)	11/03/81	05/21/84	No certification.
T.J.D. Servs., Inc. v. United States, 6 Cl. Ct. 257 (1984)	08/05/81	09/11/84	Form of certification.

Case Name	Claim Date	Decision Date	Issue
Pinkston v. United States, 6 Cl. Ct. 263 (1984)	07/29/83	09/14/84	No certification.
Halec Constr. Co., Inc. v. United States, 6 Cl. Ct. 439 (1984)		10/19/84	Change in amount of claim.
LDG Timber Enterprises, Inc. v. United States, 8 Cl. Ct. 445 (1985)	01/26/81	07/03/85	Change in amount of claim.
Gunn-Williams v. United States, 6 Cl. Ct. 820 (1984), 8 Cl. Ct. 531 (1985)	11/04/83	07/17/85	No certification.
Beacon Oil Co. v. United States, 8 Cl. Ct. 695 (1985)	03/30/82	09/18/85	No certification.
Prefab Prods., Inc. v. United States, 9 Cl. Ct. 786 (1986)	12/17/85	05/09/86	Timing of certification.
Fredenburg v. United States, 10 Cl. Ct. 216 (1986)	03/01/85	07/14/86	Form of certification.
Universal Sur. Co. v. United States, 10 Cl. Ct. 794 (1986)	03/23/84	09/18/86	No certification.

Case Name	Claim Date	Decision Date	Issue
Aeronetics Div., AAR Brooks & Perkins Corp. v. United States, 12 Cl. Ct. 132 (1987)	05/30/85	04/09/87	Form of certification.
H.H.O. Company v. United States, 12 Cl. Ct. 147 (1987)	05/09/85	04/09/87	No certification.
Romala Corp. v. United States, 12 Cl. Ct. 411 (1987)	04/10/86	06/03/87	Who can sign certification?
Clark Mechanical Contractors v. United States, 12 Cl. Ct. 415 (1987)	07/16/86	05/13/87	Timing of certification.
Donald M. Drake Co., v. United States, 12 Cl. Ct. 518 (1987)	10/06/83	06/30/87	Who can sign certification?
Citizens Assocs., Ltd. v. United States, 12 Cl. Ct. 599 (1987)	10/16/86	07/10/87	No certification.
Technassociates, Inc. v. United States, 14 Cl. Ct. 200 (1988)	03/25/85	01/27/88	Form of certification.
Gardner Mach. Corp. v. United States, 14 Cl. Ct. 286 (1988)	12/21/83	02/09/88	Form of certification.

Case Name	Claim Date	Decision Date	Issue
Frawley v. United States, 14 Cl. Ct. 766 (1988)	06/11/87	05/31/88	No certification.
Claude E. Atkins Enterprises, Inc. v. United States, 15 Cl. Ct. 644 (1988)	12/18/86	10/28/88	Timing of certification.
Al-Kurdi v. United States, 16 Cl. Ct. 660 (1989)	12/10/87	04/26/89	No certification.
Cecile Indus., Inc. v. United States, 18 Cl. Ct. 730 (1989)	04/23/84	11/22/89	No certification.
Spirit Leveling Contractors v. United States, 19 Cl. Ct. 84 (1989)	12/14/84	12/15/89	Change in nature of claim.
New Chardon Street Ltd. Partnership v. United States, 19 Cl. Ct. 208 (1990)	05/03/89	01/08/90	Form of certification.
Clean Giant, Inc. v. United States, 19 Cl. Ct. 390 (1990)	12/21/87	02/07/90	No certification.
SMS Data Prods. Group, Inc. v. United States, 17 Cl. Ct. 1 (1989)	04/20/87	03/01/90	Change in amount of claim.

Case Name	Claim Date	Decision Date	Issue
Al Johnson Constr. Co. v. United States, 19 Cl. Ct. 732 (1990)	09/02/86	02/21/90	Who can sign certification?
SGW, Inc. v. United States, 20 Cl. Ct. 174 (1990)	01/22/88	04/19/90	No certification.
National Sur. Corp. v. United States, 20 Cl. Ct. 407 (1990)	07/31/86	05/15/90	Who can sign certification?
American Nat. Bank & Trust Co. of Chicago v. United States, 20 Cl. Ct. 530 (1990)	02/24/89	05/30/90	Form of certification.
Westech Corp. v. United States, 20 Cl. Ct. 745 (1990)	06/22/84	07/02/90	Who can sign certification?
Lakeview Constr. Co. v. United States, 21 Cl. Ct. 269 (1990)	07/17/87	08/23/90	No certification.
Century Constr. Co. v. United States, 22 Cl. Ct. 63 (1990)	04/30/86	11/20/90	Form of certification.
Robin Industries, Inc. v. United States, 22 Cl. Ct. 448 (1991)	01/26/89	01/28/91	Form of certification.

Case Name	Claim Date	Decision Date	Issue
AAI Corp. v. United States, 22 Cl. Ct. 541 (1991)	12/18/87	02/22/91	Change in nature of claim.
KDH Corp. v. United States, 23 Cl. Ct. 34 (1991)	03/25/86	04/30/91	Form of certification.
Reliance Ins. Co. v. United States, 23 Cl. Ct. 108 (1991)	04/08/86	05/08/91	Who can sign certification?
Cupey Bajo Nursing Home, Inc. v. United States, 1991 United States Cl. Ct. Lexis 256	06/08/87	06/19/91	Form of certification.
Decisions in Which Interest Was Forfeited for Lack of Proper Certification			
Fidelity Constr. Co. v. United States, 700 F.2d 1379 (Fed. Cir. 1983)	10/26/79	02/18/83	No certification.
Essex Electro Engineers, Inc. v. United States, 702 F.2d 998 (Fed. Cir. 1983)	02/22/80	03/11/83	No certification.

Case Name	Claim Date	Decision Date	Issue
ReCon Paving, Inc. v. United States, 745 F.2d 34 (Fed. Cir. 1984)	06/24/82	10/03/84	Form of certification.
J.M.T. Mach. Co., Inc. v. United States, 826 F.2d 1042 (Fed. Cir. 1987)	02/20/84	04/30/87	Untimely certification.
Black Leaf Prods. Co. v. United States, 4 Cl. Ct. 307 (1984)	11/19/79	01/09/84	No certification.
Hoffman Constr. Co. v. United States, 7 Cl. Ct. 518 (1985)	02/09/83	03/13/85	No certification.
Weeks Dredging & Contracting, Inc. v. United States, 13 Cl. Ct. 193 (1987), *aff'd*, 861 F.2d 728 (Fed. Cir. 1988)	07/06/83	08/28/87	Form of certification.
Timberland Paving and Constr. Co. v. United States, 18 Cl. Ct. 129 (1989)	12/17/79	08/31/89	No certification.

Case Name	Claim Date	Decision Date	Issue
Decisions in Which Contractor Prevailed on Government Challenge to Certification			
United States v. General Elec. Corp., 727 F.2d 1567 (Fed. Cir. 1984)	11/13/79	02/28/84	Form of certification.
Tecom, Inc. v. United States, 732 F.2d 935 (Fed. Cir. 1984)	12/09/80	04/24/84	Change in amount of claim.
Cedar Lumber, Inc. v. United States, 799 F.2d 743 (Fed. Cir. 1986)	02/09/84	08/20/86	No certification.
Contract Cleaning Maintenance, Inc. v. United States, 811 F.2d 586 (Fed. Cir. 1987)	10/15/76	02/12/87	Change in amount of claim.
Institut Pasteur v. United States, 10 Cl. Ct. 304 (1986), *rev'd*, 814 F.2d 624 (Fed. Cir. 1987)	10/04/84	07/07/86	No certification.

Case Name	Claim Date	Decision Date	Issue
United States v. Turner Constr. Co., 827 F.2d 1554 (Fed. Cir. 1987)	05/19/80	09/03/87	Certification of subcontractor's claim.
Glenn v. United States, 13 Cl. Ct. 784 (1987), vacated, 858 F.2d 1577 (Fed. Cir. 1988)	06/08/87	10/13/88	Change in amount of claim.
Dawco Constr., Inc. v. United States, 18 Cl. Ct. 682 (1989), *aff'd in part and rev'd in part*, 930 F.2d 872 (Fed. Cir. 1991)	05/21/84	04/03/91	No certification.
United States v. Newport News Shipbuilding and Dry Dock Co., 933 F.2d 996 (Fed. Cir. 1991)	02/09/84	5/20/91	Who can sign certification?
Folk Constr. Co., Inc., 226 Ct. Cl. 602 (1981)	07/31/78	01/16/91	No certification.
Paragon Energy Corp. v. United States, 645 F.2d 966 (Ct. Cl. 1981)	09/03/79	04/08/81	Form of claim.

Case Name	Claim Date	Decision Date	Issue
Brookfield Constr. Co., Inc. v. United States, 661 F.2d 159 (Ct. Cl. 1981)	06/29/79	09/23/81	No certification.
Metric Constr. Co., Inc. v. United States, 1 Cl. Ct. 383 (1983)	04/07/81	02/08/83	Form of certification.
Klochko Equip. Rental Co., Inc. v. United States, 2 Cl. Ct. 733 (1983)	06/11/80	07/06/83	No certification.
J. F. Shea Co., Inc. v. United States, 4 Cl. Ct. 46 (1983)	06/23/80	11/30/83	Change in amount of claim.
Curley, Inc. v. United States, 6 Cl. Ct. 274 (1984)	02/18/82	09/25/84	Change in amount of claim.
Transamerica Ins. Co. v. United States, 6 Cl. Ct. 367 (1984)		10/03/84	Who can sign certification?
Gregory Lumber Co. v. United States, 9 Cl. Ct. 503, 11 Cl. Ct. 489 (1986)	08/80 - 03/11/81	01/31/86	No certification.
Elgin Builders, Inc. v. United States, 10 Cl. Ct. 40 (1986)	1979-1980 est.	05/20/86	No certification.

Case Name	Claim Date	Decision Date	Issue
Todd Bldg. Co. v. United States, 13 Cl. Ct. 587 (1987)	11/21/85	11/13/87	Form of certification.
El Centro v. United States, 17 Cl. Ct. 794 (1989)	02/85	08/07/89	No certification.
Embrey v. United States, 17 Cl. Ct. 617 (1989)	07/22/87	07/17/89	Change in amount of claim.
Triax Co. v. United States, 17 Cl. Ct. 653 (1989), *vacated*, 20 Cl. Ct. 507 (1990)	04/01/85	05/25/90	Who can sign certification?
Cubic Corp. v. United States, 20 Cl. Ct. 610 (1990)	03/28/86	06/06/90	Form of certification.
Western Empire Constructors, Inc. v. United States, 20 Cl. Ct. 668 (1990)	10/05/83	06/13/90	Who can sign certification?
Sun Cal, Inc. v. United States, 21 Cl. Ct. 31 (1990)	03/01/85	07/10/90	Who can sign certification?
Cox Constr. Co. v. United States, 21 Cl. Ct. 98 (1990)	01/21/88	08/07/90	Who can sign certification?

Case Name	Claim Date	Decision Date	Issue
Little River Lumber Co. v. United States, 21 Cl. Ct. 527 (1990)	04/14/78	09/28/90	Who can sign certification?
Manning Elec. & Repair Co., Inc. v. United States, 22 Cl. Ct. 240 (1991)	07/28/88	01/03/91	Who can sign certification?